

TOWN OF SHREWSBURY

WETLANDS REGULATIONS

Approved by Shrewsbury Conservation Commission on September 19, 2023.

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1. Introduction and Purpose

- 1.1. Authority.** These Wetlands Regulations (the “Regulations”) are promulgated by the Shrewsbury Conservation Commission (the “Commission”) pursuant to authority granted to it under the Town of Shrewsbury Wetlands Bylaw, (the “Wetlands Bylaw”).
- 1.2. Purpose.** The purpose of the Wetlands Bylaw is to protect the wetlands, related water resources, and adjoining land areas in the Town of Shrewsbury by prior review and control of activities deemed by the Commission likely to have a significant or cumulative effect upon wetland values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion, and sedimentation control, storm damage prevention, water pollution prevention, fisheries, freshwater shellfish, wildlife habitat, recreation, aesthetics, agriculture, and aquaculture values.

The purpose of the Regulations is to establish definitions, uniform procedures, and standards by which the Commission will carry out its responsibilities under the Wetlands Bylaw.

- 1.3. Applicability.** Except as permitted by the Commission or as provided in the Wetlands Bylaw, no person shall remove, fill, dredge, build upon, or alter the following resource areas:
 - 1.3.1.** Any freshwater wetland, bordering vegetated wetland, marsh, wet meadow, bog, or swamp;
 - 1.3.2.** Any isolated vegetated wetland or vernal pool (certified or uncertified);
 - 1.3.3.** Any bank, beach, lake, river, pond, stream, or any land under said waters;
 - 1.3.4.** Any land subject to flooding or inundation by groundwater, surface water run-off, or storm flowage; and
 - 1.3.5.** Any riverfront area;
 - 1.3.6.** Any proposed work, which falls within 100 feet of such resource areas, or within the riverfront area, must be approved by the Commission.
- 1.4. Revision.** The Regulations may be revised from time to time by the Commission after public notice and hearing as required by the Wetlands Bylaw.

2. Definitions

The following definitions shall apply in the interpretation and implementation of the Wetlands Bylaw and these Regulations. For any terms not defined in these Regulations or in the Wetlands Bylaw the definitions used in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, §40 as amended) and regulations thereunder (310 CMR 10.00 as amended) shall apply.

Activity. Any form of draining, dumping, dredging, damming, discharging, excavating, filling or grading; the erection, reconstruction or expansion of any buildings or structures; the driving of pilings; the construction or improvement of roads and other ways; the changing of run-off characteristics; the intercepting or diverging of ground or surface water; the installation of drainage, sewage and water systems; the discharging of pollutants; the destruction of plant life; and any other changing of the physical characteristics of land.

Agriculture. As defined in 310 CMR 10.04 as amended shall apply in these Regulations.

Alter. Includes, without limitation, the following activities when undertaken to, upon, within, or affecting resource areas protected by the bylaw and these regulations:

- A. Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind;
- B. Changing of pre-existing drainage characteristics including flushing characteristics, salinity distribution, sedimentation patterns, flow patterns or flood retention characteristics;
- C. Disturbance of water level or water table;
- D. Dumping, discharging or filling with any material which may degrade water quality;
- E. Placing of fill or removal of material which could alter elevation;
- F. Driving of piles, erection or repair of buildings or structures of any kind;
- G. Placing of obstructions or objects in water;
- H. Destruction or relocation of plant life, including cutting or trimming of trees and shrubs except for routine maintenance and pruning of shrubs;
- I. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters;
- J. Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater;
- K. Incremental activities which have, or may have a cumulative adverse impact on the resource areas protected by the bylaw and these regulations;
- L. Any activities, changes, or work which causes alteration of wildlife habitat.

Aquaculture. As defined in 310 CMR 10.04 as amended shall apply in these Regulations.

Bank. Shall include the land area which normally abuts and confines a water body; the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.

Bordering Land Subject to Flooding (BLSF). An area with low, flat topography adjacent to and inundated by flood waters rising from creeks, rivers, streams, ponds, or lakes. BLSF extends from the banks of these waterways and water bodies. Where a bordering vegetated wetland occurs, BLSF extends from said wetland. The boundary of BLSF is the estimated maximum lateral extent of floodwater, which will theoretically result from the statistical 100-year frequency storm. Said boundary shall be determined by reference to the most recently available flood profile data prepared for the Town of Shrewsbury under the National Flood Insurance Program administered by the Federal Emergency Management Agency. Said boundary, so determined, shall be presumed accurate. This presumption may be overcome by credible evidence from a registered professional engineer or other professional competent in such matters. Where National Flood Insurance Program profile data is unavailable, the Commission may require the applicant to determine the boundary of BLSF by engineering calculations prepared by a registered professional engineer or other professional competent in such matters. The engineering calculations shall be based upon a design storm of seven point seven (7.7) inches of precipitation in twenty-four (24) hours using the standard methodologies set forth in the National Oceanic and Atmospheric Administration (NOAA) Precipitation Frequency Estimates. In determining the boundaries of the BLSF, the Commission shall also consider an observed flood boundary provided that the observation is documented and recorded.

Bordering Vegetated Wetland (BVW). As defined in M.G.L. c. 131, § 40 and in 310 CMR 10.55(2) as amended.

Buffer Zone. The buffer zone means that area of land extending 100 feet horizontally outward from any freshwater wetland, bordering vegetated wetland, marsh, wet meadow, bog, or swamp; any bank, beach, lake, river, pond, or stream. Areas subject to jurisdiction identified in 310 CMR 10.02(1)(b) to (f) do not have a buffer zone.

Ground Water Supply. Water below the earth's surface in the zone of saturation.

Impervious Cover/Surface. Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes, without limitation, roads, paved parking lots, sidewalks, rooftops, paving stones, and compacted gravel.

Intermittent Streams. A stream that has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from precipitation is a supplemental source of water for stream flow. Upstream of the first point of perennial flow, a stream is normally intermittent. Intermittent Streams are not rivers

as defined in 310 CMR 10.58 as amended because surface water does not flow within them throughout the year.

Isolated Land Subject to Flooding. As defined in 310 CMR 10.57 as amended shall apply in these Regulations.

Isolated Vegetated Wetland (IVW). Freshwater wetlands, of at least 1,000 square feet in area, that do not border creeks, rivers, streams, ponds, or lakes and that do not qualify as a Vernal Pool. The types of isolated vegetated wetlands include but are not limited to, wet meadows, marshes, swamps, and bogs. In addition to the minimum size requirement, isolated vegetated wetlands must also meet at least two of the following three criteria:

- A. The vegetation community of an Isolated Vegetated Wetland consists of 50% or more wetland indicator plants. Wetland indicator plants are classified into the following categories: facultative, facultative +, facultative wetland -, facultative wetland, facultative wetland +, or obligate wetland (source: U.S. Fish & Wildlife Service); or
- B. Other indicators of hydrology, including site inundation or saturation, watermarks, drift lines, sediment deposits, oxidized rhizospheres, water-stained leaves, shallow root systems, buttressed tree trunks, and recorded hydrologic data (stream gauge, aerial photo, or other); or
- C. Presence of hydric soils.

Lake. Any open body of fresh water with a surface area of ten acres or more, including great ponds.

Owner of Land Abutting the Activity. The owner of land sharing a common boundary or corner with the site of the proposed activity in any direction, including land located directly across a street, way, creek, river, stream, brook, or canal.

Person. Includes any individual, group of individuals, association, partnership, corporation, company, business, organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

Pond. Any open body of fresh water with a surface area observed or recorded within the last ten years of at least 10,000 square feet. Ponds may be either naturally occurring or human-made by impoundment, excavation, or otherwise. Ponds shall contain standing water except for periods of extended drought. The following human-made bodies of open water shall not be considered ponds: basins or lagoons which are part of wastewater treatment plants; swimming pools or other impervious human-made

basins; and individual gravel pits or quarries excavated from upland areas unless inactive for five or more consecutive years.

Project Locus. The lot(s) on which an applicant proposes to perform an activity.

Project Purpose. The general, functional description of an activity proposed within the riverfront area (e.g., construction of a single-family house, expansion of a commercial development).

Project Site. The area within the Project Locus that comprises the limit of work for activities, including but not limited to, the dredging, excavating, filling, grading, the erection, reconstruction or expansion of a building or structure, the driving of pilings, the construction or improvement of roads or other ways, and the installation of drainage, stormwater treatment, environmentally sensitive site design practices, sewage, and water systems.

Rare Species. shall include, without limitation, all vertebrate and invertebrate animals and all plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless of whether the site in which they occur has been previously identified by the Division.

Resource Area. Any freshwater wetlands, marshes, wet meadows, bogs, swamps, certified vernal pools, springs, banks, reservoirs, lakes, ponds of any size, beaches, dunes, and lands under water bodies; intermittent streams, brooks, and creeks; lands adjoining these resource areas out to a distance of 100 feet, known as the buffer zone; perennial rivers, streams, brooks and creeks; lands adjoining these resource areas out to a distance of 200 feet, known as the riverfront area; lands subject to flooding or inundation by groundwater or surface water; and lands subject to flooding (collectively the “resource areas protected by the bylaw”).

Riverfront Area. As defined in 310 CMR 10.58 as amended shall apply in these Regulations. Intermittent Stream Status will be valid for no more than three (3) years after determination in accordance with 310 CMR 10.58(2)1.d.

Stormwater Management System. A system for conveying, collecting, storing, discharging, recharging, or treating stormwater on-site including stormwater best management practices and any pipes and outlets intended to transport and discharge stormwater to the groundwater, surface water, or a municipal separate storm sewer system.

Stream. A body of running water, including brooks and creeks, which moves in a definite channel in the ground due to a hydraulic gradient, and which flows within, into or out of an Area Subject to Protection under M.G.L. c. 131, § 40. A portion of a

stream may flow through a culvert or beneath a bridge. Such a body of running water which does not flow throughout the year (i.e., which is intermittent) is a stream except for that portion up gradient of all bogs, swamps, wet meadows, and marshes.

Structure. A combination of materials assembled at a fixed location to give support or shelter or for other purposes, including, but not limited to: buildings, frameworks, tents, wells, bridges, stadiums, tennis courts, swimming pools, barns, reception or communication dishes, antennas, towers, monopoles, flagpoles, dog or playhouses, play sets, benches, detached garages, detached storage sheds, retaining walls, and the like, as well as structures relating to outdoor sports and recreation such as bocce ball courts, shuffleboard and the like, but excluding signs and fences, stone walls, hedges or other similar enclosures. Any sign, fence, stone wall, hedge, or enclosure constructed within the 30-foot buffer shall not restrict the movement of water or wildlife.

Swamp. As defined in M.G.L. c. 131, § 40, as amended.

Upland. Land outside the boundary of any wetland resource areas, riverfront areas, proposed wetland replication areas, navigable waters, water bodies, and above the 100-year flood elevation.

Vernal Pool. As defined in 310 CMR 10.04, as amended.

Vista Pruning. The selective thinning of tree branches or understory shrubs to establish a specific "window" to improve visibility. Vista pruning does not include the cutting of trees which would reduce the leaf canopy to less than 90% of the existing crown cover and does not include the mowing or removal of understory brush.

Wildlife Habitat. An Area Subject to Protection under M.G.L. c. 131, § 40, which due to its plant community, composition and structure, hydrologic regime, or other characteristics provides important food, shelter, migratory or overwintering areas or breeding areas for wildlife.

3. **Waivers**

Strict compliance with the requirements of these Rules and Regulations may be waived when, in the judgment of the Conservation Commission, such action is in the public interest and not inconsistent with the Shrewsbury Wetland Bylaw, or the MA Wetland Protection Act (MGL Ch.131§40) and related Regulations (310 CMR 10.00) and there are no reasonable conditions or alternatives that would otherwise allow the project to proceed in compliance with these regulations. Any person seeking a waiver pursuant to this section shall make such request in writing, specifically identify those portions of the Regulations for which a waiver is sought and all reasons in support of the request for the

waiver. The Commission shall act upon the request during the public hearing and requests may be approved at the discretion of the Commission by majority vote. The written decision will become a part of the issued Wetlands Permit(s).

4. Performance Standards

4.1. Activities within Areas Subject to Protection under the Wetlands Bylaw.

The general performance standards for Banks, Land Under Water Bodies, Bordering Land Subject to Flooding, Isolated Land Subject to Flooding, and Riverfront Area shall be as stated in 310 CMR 10.00 as amended. Isolated Vegetated Wetlands are likely to be significant to the interests identified in 310 CMR 10.55(1) that are supported by Bordering Vegetated Wetlands and other interests identified in the ordinance. The general performance standards for Bordering Vegetated Wetland or Isolated Vegetated Wetland shall not destroy or otherwise impair any portion of said area and shall be held to performance standards as stated in 310 CMR 10.55 as amended except where an alteration of BVW or IVW is proposed. The Commission will consider projects requiring the permanent alteration of up to five thousand (5,000) square feet of BVW or IVW as permitted by 310 CMR 10.55(4)(b) as amended only if the applicant demonstrates: 1) no practical alternative is available; 2) project scope and design minimize the amount of resource area destroyed; 3) in the judgment of the Commission such work will not lead to degradation of additional BVW or IVW; and 4) replication area is provided in a ratio of 2:1 for the BVW or IVW destroyed.

4.1.1. Performance Standards for Wetland Replication.

Where a replication of BVW or IVW is proposed, the applicant shall submit complete replication plans and a replication report with the Application for Permit. In addition, the following requirements shall apply:

- A. The replication plan and report shall include, at a minimum, topography, location, and size of BVW or IVW to be altered, the location and size of the replication area, a description of the BVW or IVW to be altered, and a description and detailed methodology of the replication work;
- B. The replication area shall be completed before the project is completed;
- C. A wetlands specialist with at least five (5) years of experience in wetlands replication shall supervise the replication work;
- D. Written reports shall be submitted by the wetland scientist by October 1st of each growth year stating the condition of erosion controls and documenting the condition of growth of the replicated area;
- E. An as-built report and an as-built plan of the replication area, both certified by the wetlands specialist, shall be submitted and shall provide the date the BVW or IVW was excavated, the soil depth data of such BVW or IVW, the dates of planting and, if applicable, replanting of replication areas along with the percentage of cover of individual species; and

- F. No certificate of compliance shall be issued for the Permit authorizing the replication work until all conditions of this section have been complied with and at least two full growing seasons have elapsed since the replication work began. At its discretion, the Commission may issue a certificate of compliance prior to the completion of two (2) full growing seasons upon receipt of a bond or other security in an amount and upon such terms as are acceptable to the Commission.
- G. The Commission may request a security bond be provided by the applicant that shall be held until the certificate of compliance has been issued. The value of the bond shall be determined by the Commission, or its agent based on the amount of wetland to be replicated.

4.1.2. Cold Weather Delineations. Wetland boundary delineations shall be established only between April 15 and November 1 of each year, unless the Commission grants a waiver due to low probability of error on a particular site, or reserves the right to adjust the boundary during the growing season. Such a waiver shall only be granted upon a written request and it shall be acted upon by the Commission at their first regularly scheduled meeting after receipt of such a written request. This provision shall not apply to any project seeking approval for a Title V compliant septic system which shows no alteration closer to resource area than 50 feet.

4.2. Activities within the Buffer Zone.

- 4.2.1. Preamble.** Projects undertaken within 100 feet of a resource area have a high likelihood of altering that area, either during construction or from routine operation of the completed project. In the experience of the Commission, projects in that part of the buffer zone closest to the wetland almost inevitably cause degradation of the resource area. The intent of this section is to explain activities that are and are not acceptable adjacent to resource areas.
- 4.2.2. Presumption.** Within a buffer zone all activities that involve removal of vegetation (except routine lawn, garden maintenance, and shrub pruning), grading, filling, excavation, erection of permanent structures, application of inorganic fertilizers (excluding lime and other soil treatments approved by the Commission), or application of pesticides whose labels indicate they are toxic to aquatic organisms, is presumed to alter the adjacent resource areas. This presumption may be overcome by meeting the general performance standards set forth below.
- 4.2.3. General Performance Standards.** No structure shall be placed within thirty (30) feet of any resource area. Furthermore, no grading, filling,

excavation, removal of vegetation, or other construction activity shall be allowed within fifteen (15) feet of said resource areas. Notwithstanding the above, the Commission may allow work closer to resource areas if needed:

- A. to provide access to an area where an alteration of BVWor IVW has been allowed;
- B. if the work qualifies as a limited project (310 CMR 10.53 (3) as amended); or
- C. for stormwater outlet structures.

In other projects, the Commission may allow work closer to a resource area if the applicant demonstrates:

- A. alternatives have been considered and in the judgment of the Commission no practical alternative is available;
- B. project scope and design minimize work in close proximity to resource areas;
- C. site conditions (including but not limited to slope, soil type, and hydrology) will allow prevention of wetland damage from such work; and
- D. such work will not lead to encroachment on the resource area after completion of the project.

For projects involving steep slopes, highly erodible soils, extensive disturbed areas, or hydrologic conditions likely to promote significant erosion, the Commission may require a wider undisturbed buffer to ensure protection of wetland resource areas. Furthermore, the presumption of wetland resource alteration from fertilizers and pesticides may be overcome by providing qualified technical data to the Commission indicating that the chemical products will not alter wetland resource areas.

4.3. Riverfront Area

4.3.1. Preamble. Projects undertaken within the riverfront area have a high likelihood of altering that area, either during construction or from routine operation of the completed project. These areas are also likely to be significant to protect the private or public water supply; to protect groundwater; to provide flood control; to prevent storm damage; to prevent pollution; to protect wildlife habitat and to protect fisheries. The intent of this section is to emphasize activities that are and that are not acceptable within this resource area.

4.3.2. Presumption. Within this area, all activities that involve removal of vegetation, grading, filling, fertilizers, pesticides, and other chemical application is presumed to alter the resource area. This presumption may be

overcome by meeting the general performance standards set forth in 310 CMR 10.58(4), and below.

- 4.3.3. General Performance Standards.** No structure shall be placed within the resource area except as allowed by 310 CMR 10.58. Furthermore, no grading, filling, excavation, removal of vegetation, or other construction activity shall be allowed within 200 feet of the annual mean high water level of any river. Notwithstanding the above, the Commission may allow work within the resource area provided the applicant demonstrates that the work will not be detrimental to the resource area. Furthermore, the presumption of wetland resource alteration from fertilizers, pesticides, and de-icing chemicals may be overcome by providing qualified technical data to the Commission indicating that the chemical products will not alter the resource area or adjacent waters.

5. Plans and Engineering Information

- 5.1. General.** Plans shall describe the proposed activity and its effect on the environment. All plans, drawings, sketches, and calculations shall be legible and dated, and signed by the person responsible for their preparation. Plans and drawings involving the practice of surveying or engineering shall be stamped and signed by a professional surveyor or engineer. Plans shall be consistent with those submitted to other Town boards/ departments and the Massachusetts Department of Environmental Protection. Plans shall be folded, not rolled.
- A. The entire application package shall be submitted to the online permitting system.
 - B. A PDF of the entire application package shall be submitted by email to conservation@shrewsburyma.gov
 - C. **One (1)** copy of the entire application package, and at least **three (3)** copies of all plans and drawings shall be submitted in hard copy to the Commission at Shrewsbury Town Hall, 100 Maple Ave., Shrewsbury, MA 0545
- 5.2. Plan Requirements for A Request for Determination of Applicability.** Unless otherwise authorized by the Commission, plans submitted for a Request for Determination of Applicability shall include the following information at a minimum:
- A. A project locus map copied from the U.S. Geological Survey quadrangle sheet, Mass GIS site or a Town of Shrewsbury map showing the location of the proposed activity.
 - B. Legal address as approved by the Town Assessor.
 - C. Names and locations of adjacent roadways.
 - D. Name(s) of the property owner of record.
 - E. Names of all abutters.

- F. On all drawings the title designating the project location, the name of the person preparing the drawings, drawing scale, the date prepared, and any revision dates.
- G. Delineation of all known resource areas and the buffer zones as defined and in 310 CMR 10.00 as amended and in the Regulations.
- H. Delineation of the 100-year flood plan based on the most current FEMA flood maps if applicable.
- I. Location of all existing and proposed structures, paved areas, and other alterations.
- J. Location of all existing subsurface sewage disposal systems, drinking water wells, and drainage structures.

5.3. Plan Requirements for an Application for Permit. Unless otherwise authorized by the Commission, plans submitted for an Application for Permit shall include the following information at a minimum:

- A. A project locus map copied from the U.S. Geological Survey quadrangle sheet, Mass GIS site, or Town of Shrewsbury map showing the location of the proposed project.
- B. Legal address as approved by the Town Assessor.
- C. Names and locations of adjacent roadways.
- D. Name(s) of the property owner of record.
- E. Property lines with distances and bearings.
- F. Names of all the abutters.
- G. On all plans, the title designating the project location, the name of the person preparing the drawings, drawing scale, the date prepared, and any revision dates.
- H. Delineation of all known resource areas and the buffer zones as defined in 310 CMR 10.00 as amended and in the Regulations.
- I. Delineation of the 100-year flood plan based on the most current FEMA flood maps.
- J. Delineation of any Estimated Habitat of Rare Wildlife as indicated on the most current NHESP maps.
- K. Delineation of all areas in the Shrewsbury Watershed Protection District
- L. Location of all existing and proposed structures, paved areas, grading, and other alterations.
- M. Existing and proposed contours of the entire site and affected adjacent areas. Generally, one (1) foot contours should be shown. Contours should refer to the North American Vertical Datum (NAVD) 1988 and any amendments thereof. Horizontal Datum should refer to North American Datum (NAD) 83 Zone 4176 Massachusetts State Plane. *No assumed benchmarks shall be accepted.*
- N. Location of existing and proposed stormwater management facilities, BMPs, and associated engineering data.
- O. Location of BVW and IVW areas proposed to be filled and associated replication areas. Cross sections showing slopes, bank, and bottom treatment of each resource area to be altered. Locations of cross sections must be identified.

- P. Location and size of all trees with a 12” caliper or larger to be removed within thirty (30) feet of the delineated wetland boundary. Trees 24” caliper or larger are to be preserved within the 100 ft. buffer unless a licensed arborist determines and submits in writing that it is diseased or a threat to safety.
- Q. Locations and elevations of cellars or floors and subsurface sewage disposal systems, including leaching facilities and reserve leaching areas.
- R. Location of all existing and proposed wells.
- S. Soil characteristics of the site.
- T. Erosion and sediment control plans.

Layout and site plans shall be drawn at commonly acceptable scales, but in no case in a scale greater than one (1) inch = thirty (30) feet, without authorization from the commission or its agent, with detail and profile drawings drawn to appropriate scales. All plans shall be stamped by a Registered Professional Engineer.

For projects involving disturbance of areas in excess of 10,000 square feet, methods for stabilizing cleared areas of the site during extended shutdown due to weather, economic conditions, or any other cause should be provided. A construction sequence for proposed erosion and sediment controls, clearing and grubbing, excavation, installation of improvements, grading, and stabilization shall be provided to the Commission with the application.

For projects requiring a Shrewsbury Storm Water Management Permit under the Shrewsbury Storm Water Bylaw and Regulations, a complete Shrewsbury Storm Water Management Permit application shall be included in the Permit application package.

- 5.4. Other Information.** The requirements stated above are not definitive or exclusive. An applicant may be required to submit additional information deemed necessary to determine compliance with the Wetlands Bylaw and the Regulations. Applicants and their consultants are encouraged to contact Commission staff to ascertain information requirements for specific projects.

6. Procedures

- 6.1. Time Periods.** In computing any period of time specified in the Wetlands Bylaw or the Regulations, the day of the act or event after which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. When a period of time prescribed or allowed by the Wetlands Bylaw or the Regulations is less than ten (10) days, intermediate Saturdays, Sundays, and legal holidays, shall be excluded in the computation. “Legal holiday” includes any day

appointed as a holiday by the President or the Congress of the United States or designated by the laws of the Commonwealth of Massachusetts.

- 6.2. Time Limits and Extensions.** A Permit shall expire three (3) years from the date of issuance. Notwithstanding the above, the Commission, in its discretion, may issue a Permit expiring five (5) years from the date of issuance and may not be renewed. A project that has been started under a valid permit may apply for a one-year extension, provided that a request for renewal is received, in writing, by the Commission prior to expiration. The correct application form for an Extension Permit for Orders of Conditions is WPA Form 7 available on the MassDEP website.
- 6.3. Actions by Conservation Commission.** Where the Wetlands Bylaw states that a particular action is to be taken by the Commission, that action is to be taken by more than half the members present at a meeting of at least a quorum. A quorum is defined as a majority of the members then in office.
- 6.4. Determination of Applicability.** Any person, who desires a determination as to whether the Wetlands Protection Act and or the Shrewsbury Wetlands Bylaw applies to an area, or work to be performed on such area, may submit a written Request for Determination of Applicability to the Commission. The correct application form to be used is WPA Form 1. The form, as well as instructions for completing the form are available on the MassDEP website. The Commission will issue its decision in a Determination of Applicability using WPA Form 2. A Request for Determination of Applicability shall be deemed filed pursuant to the Wetlands Bylaw if it includes correct filing fees, plans, and other information as required by the Regulations and is either hand delivered or sent by certified mail to the Commission office.
- 6.5. Abbreviated Notice of Resource Area Delineation.** Any person may use the Abbreviated Notice of Resource Area Delineation for the confirmation of a delineated boundary of bordering vegetated wetlands and other resource areas on the site, prior to filing a notice of intent for proposed work. The correct application form is WPA Form 4A. The form, as well as instructions for completing the form, are available on the MassDEP website. Application shall conform with CMR 310 10.05(4)(b)(2).
- 6.6. Application for Permit.** An application for permit shall be deemed filed pursuant to the Wetlands Bylaw if it includes correct filing fees (see Section 7.2), plans, and other information as required by the Regulations and is either hand delivered or sent certified mail to the Commission office by the filing deadline. The correct application form for an Application for Permit is a Notice of Intent (WPA Form 3) or an Abbreviated Notice of Intent (WPA Form 4). The WPA Form 3 and associated instructions are available on the MassDEP website. The Commission will issue its decision in the form of an Order of Conditions using WPA Form 5. The applicant

must also give written notice of the filing of an application for permit to all abutters within 100 feet of the property line and including owners of land directly opposite on any street, including any in another municipality or across a body of water.

- 6.7. Revocation or Modification of Permit.** For good cause the Commission may revoke or modify a Permit issued under the Wetlands Bylaw after notice to the holder of the Permit and notice to the public, abutters, DEP, and Town boards.
- 6.8. Certificates of Compliance.** Upon completion of the work as described in the Order of Conditions, the applicant must submit a WPA Form 8a, Request for Certification of Compliance. WPA Form 8a is available on the MassDEP website. Once the Commission has inspected the site to determine compliance and a public hearing is held to review the findings, upon approval, the Commission will issue a Form 8b Certificate of Compliance, and release any bonds as held under section 4.1.1 (G).

7. Hearings and Fees

- 7.1. Hearings.** The following shall apply to all hearings held pursuant to the Wetlands Bylaw:
 - A. The Commission shall schedule a public hearing upon any application or request for determination, with written notice given at the expense of the applicant five (5) working days prior to the hearing in a newspaper of general circulation in Shrewsbury.
 - B. The Commission shall commence the public hearing within twenty-one (21) days from receipt of a completed application or request for determination unless a waiver is authorized, in writing, by the applicant.
 - C. The Commission shall issue its Permit or determination, in writing, within twenty-one (21) days of the close of the public hearing unless an extension is authorized, in writing, by the applicant.
 - D. The Commission may combine its hearing under the Wetlands Protection Act with the hearing under the Wetlands Bylaw.

7.2. Fees.

- 7.2.1. Amount.** As per 801 CMR 4.02 at 310 (1) Department of Environmental Protection.
- 7.2.2. Additional Local Fee.** Filing of a Request for Determination of Applicability, Abbreviated Notice of Resource Area Delineation, Notice of Intent, or a Certificate of Compliance shall require the applicant to pay filing fees in addition to any required by the Wetlands Protection Act M.G.L. c. 131 §40 and regulations thereunder (310 CMR 10.00).

See the attached Appendix for the fee schedule

- 7.2.3. After the Fact Applications** will be charged triple the normal filing fee except when an emergency certification was issued.
- 7.2.4. Consultant Fee.** A consultant fee shall be paid by the applicant/owner in an amount equal to the actual amount of the costs incurred, plus \$100.00 for administrative costs, whenever the Commission determines that independent engineering or other expert consultation is deemed necessary to review the application for Permit.
- 7.2.5. Payment.** The filing fee shall be payable upon filing of the Application for Permit or Request for Determination of Applicability. Failure to pay the filing fee when due shall cause the Application for Permit or Request for Determination of Applicability to be deemed incomplete. The consultant fee shall be payable when the Commission appoints an independent consultant. Failure to pay the consultant fee when due shall constitute sufficient cause to deny the Permit or Determination.

8. Enforcement and Violations

The Commission shall have the authority to enforce this chapter, its regulations, and permits issued thereunder by violation notices, administrative orders, and civil and criminal court actions as described in Section IX of the Town of Shrewsbury Wetlands Protection Bylaw.

9. Severability

The invalidity of any section or provision of the Regulations shall not invalidate any other section or provision thereof, nor shall it invalidate any Permit or determination, which previously has been issued.

10. Effective Date

10.1. The Regulations are effective September 19, 2023.

10.2. Amendment of Regulations. Subsequent amendments will become effective, following public notice and a public hearing to consider said amendments, upon an affirmative vote of a majority of the Commission members present or upon a subsequent date specified at the time of their approval. No amendment shall become effective unless and until a certified copy is placed on file with the Town Clerk. A copy of the rules and regulations, as amended, shall be filed with the Town Clerk on or before their effective date.

Appendix

SCHEDULE OF FEES

Applicants are responsible for paying all fees required under the Wetlands Protection Act in addition to the fees listed below. Fees assist in defraying costs incurred by the Conservation Department in the administration and enforcement of the by-law.

Unless noted, all checks shall be made payable to the Town of Shrewsbury, please note fee type and project address in Attention Memo section.

Request for Determination of Applicability	\$65.00
Notice of Intent	(a) \$175.00 for projects described under Category 1, 310 CMR 10.03(7) (c) 1 OR (b) \$500.00 for all other projects except as noted below
Request to Amend Order of Conditions	\$50.00
Request for an Extension of an Order of Conditions	\$50.00
Request for a Certification of Compliance	\$50.00
Request for Emergency Certification	\$50.00
Legal Advertisement Fee	\$100.00
Enforcement and Fines	\$300.00 per violation day as noted and per the Commission’s determination.

Any violation of the by-law may be subject to fines, pursuant to the language in the by-law and regulations as determined by the Commission on a case-by-case basis.

After the publication of legal notice, and after the opening and closing of a public hearing, the fee schedule above was adopted by the Shrewsbury Conservation Commission on September 19, 2023.